The Confederated Tribes of the Colville Reservation

Prepared Statement of the Honorable Andrew Joseph, Jr.
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Subcommittee for the Indigenous Peoples of the United States
Committee on Natural Resources

Oversight Hearing on "Infrastructure in Indigenous Communities: Priorities for American Jobs Plan"

April 21, 2021

The Confederated Tribes of the Colville Reservation ("Colville Tribes") and other Indian tribes throughout the country have faced enormous obstacles to getting health care facilities constructed under the existing programs administered through the Indian Health Service ("IHS").

The Colville Tribes respectfully requests that the Subcommittee and the full Committee do everything in their power to ensure that Congress makes a significant investment in Indian health facilities when it implements President Biden's American Jobs Plan.

In an April 13, 2021, letter to House and Senate leadership on infrastructure needs, the National Congress of American Indians, the National Indian Health Board, and other national and regional Indian organizations requested that Congress include at least $21 billion for Healthcare Facilities Construction in the infrastructure bill.

The Colville Tribes reiterates that request and specifically supports the recommendation in that letter that Congress direct a substantial portion of funding to the IHS through the authorities authorized in Section 301(f) of the Indian Health Care Improvement Act to ensure that all IHS areas receive facility construction funding—not just a handful of projects.

Background on the Colville Tribes

Although now considered a single Indian tribe, the Confederated Tribes of the Colville Reservation is a confederation of twelve aboriginal tribes and bands from across eastern Washington state, northeastern Oregon, Idaho, and British Columbia. The present-day Colville Reservation is in north-central Washington state and was established by Executive Order in 1872. The Colville Reservation covers approximately 1.4 million acres, and its boundaries include parts of Okanogan and Ferry counties. The Colville Tribes has nearly 9,600 enrolled members, making it one of the largest Indian tribes in the Pacific Northwest and the second largest in the state of Washington. About half of the Colville Tribes' members live on or near the Colville Reservation.

Most of the Colville Reservation is rural timberland and rangeland and most residents live in one of four communities on the Reservation: Nespelem, Omak, Keller, and Inchelium. The Colville Tribes has a large IHS service area and these communities are separated by significant drive times. The CCT's primary IHS facility is in Nespelem, WA, and residents from Inchelium that require care must drive in many cases more than 90 minutes through two mountain passes.

HEALTH FACILITY CONSTRUCTION IN THE IHS SYSTEM

IHS has three programs for construction of new Indian health facilities, which are described below:

1. Priority List

The first is the Health Care Facility Construction Priority List ("Priority List"), which provides funding for construction of the facilities included on that list as well as 80 percent of the annual staffing costs. The Priority List was developed in the 1980s and no projects have been added to it since 1992. In the intervening decades, Congress has directed most of the funds that Congress has appropriated for health facilities construction to projects on the Priority List.

According to IHS's most recent publicly available data, there are seven projects remaining on the Priority List that require additional funding to complete. Four other projects on that list have been fully funded. The costs to fully fund the remaining Priority List projects are estimated at $2.4 billion.

2. Joint Venture

The second IHS construction program is the Joint Venture (JV) program, which requires an Indian tribe to pay the up-front cost of constructing a facility in exchange for the IHS providing a portion of the annual staffing costs. Because the JV program provides for the possibility of recurring staffing for selected projects, it is extraordinarily competitive.

IHS has solicited applications for the JV program three times during the past 15 years. After multiple attempts, the Colville Tribes was fortunate in that IHS selected its application for a new outpatient clinic in Omak, WA, during the last JV application round in 2020. The Colville Tribes' clinic project was one of five projects that IHS ultimately selected out of the 10 nationwide finalists and 34 total applicants. The selection of the Omak clinic by the IHS represents just the second JV project ever awarded to an Indian tribe in the IHS's Portland Area, the geographic region of the IHS that includes more than 60 Indian tribes in Washington, Oregon, and Idaho.

3. Small Ambulatory program

The third is the Small Ambulatory Health Center Grants program, which is the opposite of the JV program in that the IHS provides funding for the construction of the facility but not for

recurring staffing. Congress has provided funding for this program to the IHS on a sporadic basis during the past decade.

As the Colville Tribes has noted in previous testimony before this Committee, the current IHS funding for facilities construction has been inequitable in that it provides a disproportionately large share of funding to a handful of projects on the Priority List based on decades-old data.

In many cases, the Priority List either did not reflect health facility needs at the time or do not reflect the current needs of tribal communities. For example, the Colville Tribes sought in the 1980s and the early 1990s to replace its Nespelem, WA facility with a new facility. The Nespelem facility was originally constructed in the 1920s as a U.S. Department of War building that was converted for use in the 1930s as a clinic for the U.S. Public Health Service and, later, the IHS. The Colville Tribes were told by former IHS officials that its request for a new clinic in Nespelem was near the top of the Priority List but was removed because of concerns that the facility was a historical site. None of the more than 60 tribes in the IHS Portland Area have ever had a facility constructed under the Priority List system.

It has been more than 21 years since the Interior Appropriations Subcommittee directed the IHS to revamp its facilities construction system. The IHS, however, has ignored this request and has never provided an updated facilities construction methodology. The Colville Tribes encourages the Committee to direct IHS to engage in tribal consultation and develop an updated facility construction methodology that accurately reflects current needs and allows for changed circumstances. Given the timing of legislation to implement the American Jobs Plan, this would be a longer-term initiative and should not delay Congress from making a significant investment in Indian health facilities construction when it implements the Plan in the coming weeks.

CONGRESS SHOULD DIRECT A SUBSTANTIAL PORTION OF INDIAN HEALTH FACILITIES CONSTRUCTION FUNDS TO IHS THROUGH THE AREA DISTRIBUTION FUND

When Congress reauthorized the Indian Health Care Improvement Act in 2010, it included a new Section 301(f) that requires the IHS to consult with Indian tribes and tribal organizations in developing innovative approaches to address all or part of the total unmet needs for construction of health facilities. That section specifically provides that the IHS may establish an Area Distribution Fund (“ADF”) in which some or all health facility construction funding would be distributed regionally to the twelve IHS areas. The ADF is intended to provide flexibility to each IHS area to improve, expand, or replace existing health care facilities, or even provide staffing packages to improve the utilization of existing health facilities.

The Colville Tribes actively advocated for the ADF because it would ensure that all IHS areas would receive facility construction funds and not just a small handful of projects on the Priority List. The Facilities Appropriations Advisory Board, a joint federal-Tribal advisory committee, developed the ADF concept as a compromise to allow existing Priority List projects to be grandfathered in for funding while at the same time allowing a method for new proposals to be considered and funded.

More than 500 Indian tribes represented in seven of the twelve IHS areas, including Alaska, Bemidji, California, Nashville, Oklahoma, Phoenix (Nevada tribes), and Portland, supported the ADF when it as was added to the Indian Health Care Improvement Act by a Senate floor amendment in 2009. Since then, the National Tribal Budget Formulation Workgroup has recommended that Congress fund the ADF. That Workgroup's recommendations are based on consensus. Despite the tribes' support, the IHS has not taken steps to implement Section 301(f) in the intervening decade since its enactment into law, despite repeated requests from the Colville Tribes and tribal organizations.

If Congress makes any significant investment in Indian health facilities construction, it should direct a substantial portion of the funds to be distributed by IHS through the ADF. To do otherwise would repeat what occurred when Congress enacted the American Recovery and Reinvestment Act of 2009 when it appropriated $227 million for Indian health facilities construction that ultimately went to only two Priority List projects.

The Colville Tribes urges the Committee to ensure that Congress addresses Indian health facilities needs when it drafts legislation to implement President Biden's infrastructure plan. The Colville Tribes support the national and regional organizations' request for $21 billion for Indian health facilities and reiterates the organizations' request that a significant portion of any facilities construction funds be directed toward innovative approaches, including thee ADF.

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